

tive of the greatest evils, and the most mischievous consequences ; and therefore, there was but a year's time allowed to execute such judgments, as between party and party ; where however, the state was plaintiff it might sue out execution at any time after the year without a *scire facias*. But in debt, if the judgment was not executed, the debt was presumed to be paid, when the judgment lost its force ; and therefore, the common law, in such case, gave no *scire facias* but a new action. (r)

This limitation to the issuing of an execution on a judgment, between party and party, has been repeatedly recognized by our Legislature as being founded, like all other limitations, upon a presumption of satisfaction ; and as being, on that ground, an effectual bar to that mode of recovery ; and consequently, as furnishing conclusive evidence of the extinction of the lien ; since, as has been shown, there can be no lien where there is no right to issue execution. (s)

The statute which gave the *scire facias* as a new mode of reviving a judgment in personal actions, (t) made no alteration as to the time within which such judgments were to be executed ; nor has the act which declares, that on all judgments, thereafter to be rendered, a *fiери facias* may issue at any time within *three* years from the date of such judgments, (u) made any other alteration whatever in the existing law. And therefore if a plaintiff, after the time allowed for suing out execution, revives his judgment, its attendant lien can only operate prospectively ; and not with any retrospective effect, so as to overreach any intermediate incumbrances or alienations ; for, although, as between the parties to the judgment when revived, it may be permitted to operate as a lien upon the property of the defendant from its date ; yet, as a legal relation is never suffered to work a wrong, it cannot be allowed to bind the property as against any intermediate incumbrancer, or *bona fide* purchaser, without notice, but from the date of its revival ; (w) and so too, as to deeds, to the validity of

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(r) Gilb. Execu. 12, 26, 92, 95 ; Gilb. Court of Exchequer, 166 ; Anonymous, 2 Salk. 603 ; Stileman v. Ashdown, 2 Atk. 609 ; Eppes v. Randolph, 2 Call. 125 ; Nimmo v. The Commonwealth, 4 Hen. & Mun. 57 ; Coleman v. Cocke, 6 Rand. 629 ; Rankin v. Scott, 12 Wheat. 179 ; The United States v. Morrison, 4 Peters, 124. (s) May, 1766, ch. 7 ; February, 1777, ch. 15, s. 7 ; October, 1778, ch. 21, s. 7 ; Bac. Abr. tit. Limitation of Actions, E. 6.—(t) 13 Ed. 1. C. 45.—(u) 1823, ch. 194. (w) Jacob Law Dict. v. Relation ; Heapy v. Parris, 6 T. R. 368 ; Lord Mahon's case, 6 Mod. 59 ; Anonymous, 3 Atk. 521 ; Fothergill v. Kendrick, 2 Vern. 234 ; Bothomly v. Fairfax, 2 Vern. 751 ; S. C. 1 P. Will. 385.